

## **REMARKS/ARGUMENTS**

Claims 15-41, 43 -57 and 105-106 remain in the application. No Claims are amended.

### **The Office Communication of November 12, 2008 recites,**

**Claims 15-22, 24, 25, 28, 31-41, 43-46, 48-50, 53-57, 105 & 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122).**

**Claims 26, 27, 29, 30, 51, 52 & 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) as applied to claims 22, 15 & 36, in view of Walker (US 6,379,247).**

**Claims 26, 27, 29, 51, 52 & 104:**

### **End of citation from Office Communication of November 12, 2008.**

The rejection is respectfully traversed.

Claims 15, 36, 105 and 106 describe limitations, such as recited in claim 105 of, “a gaming apparatus comprising of one or more processors adapted and/or configured for: a) receiving a first loyalty program instrument designed or configured to store an amount of loyalty points earned from a first activity not associated with the gaming apparatus; b) validating the first loyalty program instrument; c) receiving activity data associated with an activity by the patron of said gaming establishment; d) determining based on the activity data that the patron has begun an activity for which loyalty points are accrued; e) accruing the loyalty points for the patron during the activity, f) awarding to the patron some or all of the loyalty points accrued during said activity; g) combining the awarded loyalty points and the amount of loyalty points earned from the first activity; and h) issuing to the patron a loyalty program instrument designed or configured to store the combined loyalty points.

The Packes reference (see FIGs. 1, 2 and 3) teaches certain functions are performed on a server and certain functions are performed on a gaming device. Packes clearly does not teach a gaming apparatus or a gaming machine that performs all of step listed in the pending claims. In Packes, the player tracking functions, such as storing and determining comp points are performed by a server 200 whereas the gaming device 100 provides a player tracking reader 126

for receiving a player tracking card from the player. The server 200 and the gaming device 100 are separate devices, with separate functions. This fact appears to be ignored in the Office Communication.

In addition, Packes does not teach or suggest “a) receiving a first loyalty program instrument designed or configured to store an amount of loyalty points earned from a first activity not associated with the gaming apparatus and h) issuing to the patron a loyalty program instrument designed or configured to store the combined loyalty points” In Packes teaches (FIG. 6) that the server stores “comp points 250” associated with a player account. The player account is accessed (Col. 8:24-59) via a player tracking card 126. Packes does not teach or suggest that the gaming device 100 reads loyalty points stored on a loyalty point instrument. As the reference points out, the “comp points” are stored on a server. Thus, there is no reason suggested in the reference, to store this information directly on the card and on the server at the same time in a redundant manner. Further, this proposed modification may change the principle of operation of the devices described in the reference, which as described under MPEP 2143.01 is not permitted.

In addition, the Office Communication does not provide any reasoning for performing this redundant modification. The Office Communication suggests this modification is a matter of “design choice.” Applicant believes this statement may simply be conclusionary and may not sufficient to establish *prima facie* obviousness. In MPEP 2143.01, “Suggestions or Motivation to Modify the references,” subsections III and IV, it clearly states that the fact that a reference can be modified or a statement that the modifications are within the skill of one of the art are not sufficient reasons to establish *Prima Facie* Obviousness.

Further, the first loyalty program instrument recited in step a) is not the loyalty program instrument issued in step h) that stores the combined loyalty points. Thus, even applying the modification suggested in the Office Communication that the gaming device can be modified to store “comp points” to the player tracking card and read “comp points” from the player tracking card, the reference still teaches only a single player tracking card, which would not teach all of the limitations of the pending claims. The Office Communication states the player tracking card is a loyalty program instrument but does not distinguish between the first loyalty program instrument in step a and the loyalty program instrument in step h as recited in the pending claims. Thus, the Office Communication does not establish a *prima facie* case of obviousness as all the limitations of the pending claims are not addressed.

In addition, Claims 56 and 57 recites respectively, “wherein a first gaming machine is designed or configured to communicate loyalty point information to a second gaming machine” and “simultaneously accruing loyalty points on the first gaming machine and the second gaming machine; communicating an amount of loyalty points awarded on the second gaming machine to the first gaming machine; combining an amount of loyalty points awarded on the second gaming machine with an amount of loyalty points awarded on the first gaming machine; and issuing a loyalty program instrument designed or configured to store the combined awarded loyalty points.” The Packes reference does not describe two gaming machines that communicate in this manner. The Office Communication appears to equate the server 200 in Packes as a gaming machine. Packes does not describe the server 200 as a gaming machine that provides games and in Figs. 1, 2 and 3 clearly distinguishes the server 200 from the gaming devices. Thus, this equivocation in the Office Communication that the server 200 is a networked gaming device appears in correct.

Walker is relied upon to teach awarding frequent flyer miles as comps. These teachings don’t overcome the deficiencies described above with respect Packes. Therefore, for at least these reasons, Packes alone or in combination with Walker can’t be said to render obvious the pending claims and the rejections are overcome thereby.

Applicant hereby petitions for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 504480 (Order No. IGT1P061). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
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